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10/088,336	06/13/2002	Tatsuya Inokuchi		2868
7590	12/09/2005		EXAMINER	
Jay H Maioli Cooper & Dunham 1185 Avenue of the Americas New York, NY 10036			KIM, JUNG W	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/088,336	INOKUCHI ET AL.
	Examiner Jung W. Kim	Art Unit 2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_ is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 June 2002 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

## **DETAILED ACTION**

1. A preliminary amendment was filed on June 24, 2002.
2. Claims 1-58 are pending.
3. Claims 1, 5, 8-11, 13, 16-20, 22, 23, 26-32, 34, 35, 37, 39, 40, 42-49, 51, 53 and 55-58 are amended.

### ***Information Disclosure Statement***

The references cited in the Search Report PCT have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of claims 35-41 and 49-54, particular the features of judging whether or not the user identification is to be rewritten, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

5. The disclosure is objected to because of the following informalities: in the title, replace "metod" with --method--. In the specification, on pg. 22, last line, replace "has successfully be authenticated" with --has successfully been authenticated--. Appropriate correction is required.

***Double Patenting***

6. Claims 16 and 34 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 33, 37, 40, 41, 42, 65 and 73 of copending Application No. 10,088,337. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of these claims are substantial defined in the claims of the copending application.

7. As per claim 16:

a. Regarding the limitations: "when a player is going to play back a recording medium containing user identification information, intended to identify the user, and data having been encrypted with the user identification information, judging whether user identification information read from an information holder provided in the player to hold user identification information sent from the terminal unit is coincident with user identification information read from the recording medium; decrypting encrypted data read from the recording medium when the user identification information read from the information holder provided in the player is coincident with the user identification information read from the recording medium,"

b. These features are recited in copending application no. 10,088,337, claim 33, "comparing recording medium user identification data read from a recording medium upon which are recorded the recording medium user identification data along with main data"; claim 37, "encrypted data are recorded on the recording

medium; and the main data read from the recording medium are decrypted using the recording medium user identification data as an encryption key when the recording medium user identification data are coincident with the recorder and player user identification data"; claim 41, "when the recording medium user identification data are coincident with the memory user identification data the controller allows the reproduction of the main data from the recording medium"; claim 42, "when the recording medium user identification data are coincident with the memory user identification data the controller decrypts the main data read by the head from the recording medium using the recording medium user identification"; claim 65, "comparing main data user identification data extracted from main data within which at least the main data user identification data are buried with read from a data recorder and player for reproduction of the main data; and reproducing the main data when the main data user identification data are coincident with the recorder and player user identification data"; claim 73, "the main data user identification data are decrypted using the main data user identification data when the main data user identification data are coincident with the recorder and player user identification data.

8. As per claim 34:
  - c. Regarding the limitations: "upon request, sending data stored in a storage unit provided in a server, said data having at least buried therein user identification information intended to identify a user and having been encrypted with the user identification information, to a recorder; causing a recorder to

extract the user identification information from the received data; judging whether the extracted user identification information is coincident with user identification information held in an information holder provided in the recorder; and recording the received data to a recording medium when the extracted user identification information is coincident with the user identification information held in the information holder provided in the recorder.”

d. These limitations are recited in copending application no. 10,088,337, claim 33, “comparing recording medium user identification data read from a recording medium upon which are recorded the recording medium user identification data along with main data”; claim 37, “encrypted data are recorded on the recording medium; and the main data read from the recording medium are decrypted using the recording medium user identification data as an encryption key when the recording medium user identification data are coincident with the recorder and player user identification data”; claim 41, “when the recording medium user identification data are coincident with the memory user identification data the controller allows the reproduction of the main data from the recording medium”; claim 42, “when the recording medium user identification data are coincident with the memory user identification data the controller decrypts the main data read by the head from the recording medium using the recording medium user identification”; claim 65, “comparing main data user identification data extracted from main data within which at least the main data user identification data are buried with read from a data recorder and player for

reproduction of the main data; and reproducing the main data when the main data user identification data are coincident with the recorder and player user identification data"; claim 73, "the main data user identification data are decrypted using the main data user identification data when the main data user identification data are coincident with the recorder and player user identification data.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 35, 36, 49, 50, and the corresponding dependent claims to these parent claims are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims define a feature of judging whether user identification information in received data is to be rewritten when extracted user identification information is not coincident with user identification information in the information holder in the player (claims 35 and 49), and when it is judged that the user identification information in the received data is not to be

rewritten, the received data is recorded to the recording medium (claims 49 and 50). However, the specification does not enable such features. The only relevant features regarding steps to rewrite user information is defined on pg. 42 of the specification. There, the features defined are different with respect to claims 35 and 49. On pg. 42 of the specification, applicants do not define a judging step to determine if the user identification information in received data is to be rewritten. Rather the specification defines “[w]hen the device user identification information is not coincident with the content data-owner identification information, the content data owner name, that is, the owner identification information, is rewritten to the user identification information.” It appears that the owner identification information is rewritten with no judging step when the information is not coincident. Finally the steps of claim 36 and 50 are not disclosed in the specification.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
12. Claims 8, 16, 26 and 47-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
13. Claim 8 recites the limitation “the user” in line 4. There is insufficient antecedent basis for this limitation in the claim.
14. Claim 16 recites the limitation “the terminal unit” in line 7. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 26 recites the limitation "the user" in line 4. There is insufficient antecedent basis for this limitation in the claim.

16. The term "recorder/player" in claims 47-58 is a term which renders the claim indefinite. It is not clear whether the limitation is identifying a record and a player, a recorder or a player, a recorder and/or a player, or some combination thereof.

17. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are:

e. when it is detected that the terminal unit is connected to the recorder, the recorder authenticates the terminal unit (Specification, pg. 22, last paragraph)-this step is essential since the exchanging of the encryption key only proceeds when the terminal unit is authenticated; without authentication, the exchanging step and encrypting step do not properly secure the recorded data; and

f. receiving the data to be recorded (Specification, pg. 23, 2<sup>nd</sup> full paragraph)-this step is essential so that the data is present to be encrypted as recited in the last step of the claim.

#### ***Claim Rejections - 35 USC § 102***

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

19. Claim 34 rejected under 35 U.S.C. 102(e) as being anticipated by Boccon-Gibod et al. US Patent Application Publication no. 20010016836 (hereinafter Boccon-Gibod).

20. As per claim 34, Boccon-Gibod discloses a method of controlling data recording, wherein:

- g. upon request, sending data stored in a storage unit provided in a server, said data having at least buried therein user identification intended to identify a user and having been encrypted with the user identification, to a recorder; causing a recorder to extract the user identification information from the received data; judging whether the extracted user identification information is coincident with user identification information held in an information holder provided in the recorder(pg. 4, paragraph 0039; fig. 7); and
- h. recording the received data to a recording medium when the extracted user identification information is coincident with the user identification information held in the information holder provided in the recorder (pg. 4, paragraphs 0040-0042).

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masaaki Japanese Patent Application Publication No. 11-306672 (hereinafter Masaaki) in view of Boccon-Gibod.

23. As per claim 16, Masaaki discloses a method of playing back a recording medium, comprising the steps of:

i. when a player is going to play back a recording medium containing user identification information, intended to identify the user, judging user identification information read from an information holder provided in the player to hold user identification information sent from a terminal unit is coincident with user identification information read from the recording medium; and playing back the recording medium when the user identification information read from the recording medium information holder is coincident with that read from the recording medium (Abstract: "Solution").

24. Masaaki does not disclose that the data is encrypted with the user identification information and decrypting the encrypted data to play back the data. Boccon-Gibod discloses a method and system for securing stored music and video files by encrypting

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the files using user information associated with the user licensing the file as the encryption key (pg. 4, paragraph 0039). This arrangement ensures that only the particular user is allowed to decrypt the particular music/video file. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made for the data to be encrypted with the user identification information and decrypted to play back the data to ensure that only those who have subscribed to reproduce the data can reproduce the data (Boccon-Gibod, *ibid*).

25. Claims 17 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaaki in view of Boccon-Gibod, and further in view of Takashima et al. USPN 5,701,343 (hereinafter Takashima).

26. As per claims 17 and 19-22, the rejection of claim 16 under 35 USC 103(a) is incorporated herein. (*supra*) Neither Masaaki nor Boccon-Gibod disclose that the user identification information is provided by a terminal unit separate from the player but connected to the player. However, the use of a terminal device that is separate but connected to provide a user identifier is a conventional arrangement in the art. For example, Takashima discloses connecting a computer card owned by a user to a card reader to access digital information, wherein the computer card stores and provides such data as user identification information (col. 6:32-40; 7:14-32; 8:1-34). The computer card provides tamperproofing of the user identification information and provides proper authentication of the holder of the card. Therefore, it would be obvious

to one of ordinary skill in the art at the time the invention was made for the user identification information to be provided by a terminal unit separate from the player but connected to the player. One would be motivated to do so to provide restricted access to data of a player using the security afforded by the computer card (Takashima, col. 1:55-2:34). Furthermore, the step of detecting whether a terminal unit such as a computer card is connected to the card reader when received data is not properly identified is an obvious enhancement: any step that rechecks all the connection points for proper operation when a fault or error is identified is obvious because it facilitates the correct action to be taken by the user for proper operation. Further, the step of displaying an indication that the terminal unit is not connected when the terminal unit is not connected is an obvious enhancement since it identifies the problem to the user to facilitate corrective action to be taken for proper operation. Moreover, the step of inhibiting output of data from the recording medium when the user identification information received from the terminal unit is not coincident with the user identification information read from the recording medium, or when the terminal unit is not successfully authenticated are obvious enhancements: any step that prevents access to information when user does not have access is obvious because it ensures that only those with proper access has access to the data. Further, the step of displaying an indication that a terminal unit has not been successfully authenticated is obvious since it facilitates the correct action to be taken by the user to be successfully authenticated.

The aforementioned cover the limitations of claims 17 and 20-22.

27. As per claims 23-25, the rejection of claim 23 under 35 USC 103(a) is incorporated herein. (supra) Masaaki does not disclose that the user sets the user information or that the user identification includes a username. However, the use of a username to identify a user is a standard operation in the computing arts. A username is typically an alphanumeric value that identifies one user or a group of users that correspond to an account by which the user or group of users have access to a service. Furthermore, to facilitate assigning a username relevant to the user, the username is ordinarily set by the user. For example, when a user registers an application, the user selects a name to identify the user/owner of the application. Examiner takes Official Notice of this teaching. It would be obvious to one of ordinary skill in the art at the time the invention was made for the user information to be set by the user and for the user identification to include a username. One would be motivated to do so to assign an identification value specific and relevant to the user so that the user identifies the username as their own.

28. Finally, terminal unit identifiers are conventionally set at the time of shipment of the unit. For example, MAC values are assigned by the producer of a terminal unit to uniquely identify the hardware from every other hardware. The aforementioned cover the limitations of claims 23-25.

29. Claim 18 is rejected under 35 USC 103(a) as being unpatentable over Masaaki in view of Boccon-Gibod, and further in view of Schneier Applied Cryptography, Chapter 2 (hereinafter Schneier).

30. As per claim 18, the rejection of claim 16 under 35 USC 103(a) is incorporated herein. (supra) Masaaki discloses sending the user identification information to validate the user; however neither Masaaki nor Boccon-Gibod disclose exchanging an encryption key between the player and the terminal unit, encrypting the user identification information with the exchanged encryption key, and sending the encrypted user identification information from the terminal unit to the player. Schneier discloses that the steps of transferring an encryption key for the purpose of encrypting the data with the transferred key and securely transmitting the encrypted data are a conventional operation to secure transmitted data (Schneier, pgs. 31-32, "how Alice can send a message to Bob using public-key cryptography", steps 1-4). This procedure maintains the privacy of the data being transferred from unscrupulous 3<sup>rd</sup> parties. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to exchange an encryption key between the player and the terminal unit, encrypt the user identification information and transmit the encrypted identification information from the terminal unit to the player. One would be motivated to do so to keep the transmission private without requiring the terminal unit to store the encryption key value.

31. Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaaki in view of Boccon-Gibod and Schneier, and further in view of Takashima.

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32. As per claims 8-12, the rejection of claim 18 under 35 USC 103(a) is incorporated herein. (supra) Neither Masaaki nor Boccon-Gibod disclose that the user identification information is provided by a terminal unit separate from the player but connected to the player. However, the use of a terminal device that is separate but connected to provide a user identifier is a conventional arrangement in the art. For example, Takashima discloses connecting a computer card owned by a user to a card reader to access digital information, wherein the computer card stores and provides such data as user identification information (col. 6:32-40; 7:14-32; 8:1-34). The computer card provides tamperproofing of the user identification information and proper authentication of the holder of the card. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made for the user identification information to be provided by a terminal unit separate from the player but connected to the player. One would be motivated to do so to provide restricted access to data of a player using the security afforded by the computer card (Takashima, col. 1:55-2:34). Furthermore, the step of detecting whether a terminal unit such as a computer card is connected to the card reader when received data is not properly identified is an obvious enhancement: any step that rechecks all the connection points for proper operation when a fault or error is identified is obvious because it facilitates the correct action to be taken by the user for proper operation. Further, the step of displaying an indication that the terminal unit is not connected when the terminal unit is not connected is an obvious enhancement since it identifies the problem to the user to facilitate corrective action to be taken for proper operation. Moreover, the step of inhibiting output of data from the

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recording medium when the user identification information received from the terminal unit is not coincident with the user identification information read from the recording medium, or when the terminal unit is not successfully authenticated are obvious enhancements: any step that prevents access to information when a user does not have access is obvious because it ensures that only those with proper access has access to the data. Further, the step of displaying an indication that a terminal unit has not been successfully authenticated is obvious since it facilitates the correct action to be taken by the user to be successfully authenticated. The aforementioned cover the limitations of claims 8-12.

33. As per claims 13-15, the rejection of claim 8 under 35 USC 103(a) is incorporated herein. (supra) Masaaki does not disclose that the user sets the user information or that the user identification includes a username. However, the use of a username to identify a user is a standard operation in the computing arts. A username is typically an alphanumeric value that identifies one user or a group of users that correspond to an account by which the user or group of users have access to a service. Furthermore, to facilitate assigning a username relevant to the user, the username is ordinarily set by the user. For example, when a user registers an application, the user selects a name to identify the user/owner of the application. Examiner takes Official Notice of this teaching. It would be obvious to one of ordinary skill in the art at the time the invention was made for the user information to be set by the user and for the user identification to include a username. One would be motivated to do so to assign an

identification value specific and relevant to the user so that the user identifies the username as their own.

34. Finally, terminal unit identities are conventionally set at the time of shipment of the unit. For example, MAC values are assigned by the producer of a terminal unit to uniquely identify the hardware from every other hardware. The aforementioned cover the limitations of claims 13-15.

35. Claim 35 is rejected under 35 USC 103(a) as being unpatentable over Boccon-Gibod and further in view of Ueno et al. USPN 4,999,661 (hereinafter Ueno).

36. As per claim 35, the rejection of claim 34 under 35 USC 102(e) is incorporated herein. (supra) Boccon-Gibod does not disclose the step of when it is judged that the user identification information extracted from the received data is not coincident with the user identification information held in the information holder in the player, it is judged whether user identification information in the received data is to be rewritten. However, the step of judging whether information is to be rewritten is a typical operation to update values consistent with the current status or requirement of the apparatus. For example, Ueno discloses a device having multiple functions wherein the device judges whether certain data in memory needs to be rewritten based on the mode of the device (Ueno, col. 1:55-60; claim 11). It would be obvious to one of ordinary skill in the art at the time the invention was made to judge whether user identification information is to be rewritten when the extracted user identification information and the stored user

identification information is not coincident. One would be motivated to do so to maintain values in memory consistent with the status of the device as known to one of ordinary skill in the art. The aforementioned cover the limitations of claim 35.

***Allowable Subject Matter***

37. Claims 1-7, 26-33, 47 and 48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Communications Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung W. Kim whose telephone number is 571-272-3804. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jung W Kim  
Examiner  
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December 2, 2005

  
GILBERTO BARRON JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100